

MARKETING POLICY ESTIMATES—1994 CROP

[Kernelweight basis in millions of pounds]

	12/9/94 Initial esti- mates	5/12/95 Revised esti- mates
Estimated Production:		
1. 1994 Production	640.0	727.1
2. Loss and Exempt— 3.0%	19.2	21.8
3. Marketable Produc- tion	620.8	705.3
Estimated Trade Dem- and:		
4. Domestic	175.0	152.8
5. Export	381.4	449.0
6. Total	556.4	601.8
Inventory Adjustment:		
7. Carryin 7/1/94	99.6	102.6
8. Desirable Carry- over 6/30/95	100.0	206.1
9. Adjustment (Item 8 minus item 7)	0.4	103.5
Salable/Reserve:		
10. Adjusted Trade Demand (Item 6 plus item 9)	556.8	705.3
11. Reserve (Item 3 minus item 10)	64.0	0
12. Salable % (Item 10 divided by item 3×100)	190	100.0
13. Reserve % (100% minus item 12)	110	0

¹ Percent.

As previously mentioned and reflected in the table, estimated almond crop production for the 1994–95 season increased from 640 to 727.1 million kernelweight pounds. Estimated weight losses resulting from the removal of inedible kernels by handlers and losses during manufacturing also increased from 19.2 to 21.8 million kernelweight pounds. Therefore, marketable production is expected at 705.3 million kernelweight pounds.

The Board's estimated trade demand (or shipments) also increased from 556.5 million kernelweight pounds to a total of 601.8 kernelweight pounds. If the estimates are achieved, this would set a new record for the California almond industry. Although estimated domestic trade demand decreased from 175 to 152.8 million kernelweight pounds, estimated export trade demand increased sharply from 381.4 to 449 million kernelweight pounds. Almond production in the rest of the world was well below normal, contributing to a significant increase in the amount of California almonds shipped into export markets.

The Board also revised its inventory estimates. The carryin figure—supplies of salable almonds carried in from the 1993–94 crop year—was slightly revised

from 99.6 to 102.6 million kernelweight pounds. The desirable carryout figure—supplies of salable almonds to be carried out on June 30 for early season shipment during the 1995–96 crop year—was revised from 100 to 206.1 million kernelweight pounds. With the projected short crop for the upcoming season, the carryout figure was significantly increased to provide a more adequate supply of almonds available to meet early market needs. After taking into account the carryin and desirable carryover figures, the adjusted trade demand was increased from 556.8 to 705.3 million kernelweight pounds, an amount equal to the Board's estimate of marketable production.

The order also permits the Board to recommend the establishment of a percentage of reserve almonds that can be exported. However, export is currently the largest market for California almonds and is not considered a secondary or noncompetitive outlet. For the 1994–95 crop year, exports were included in the trade demand and the export market was not an authorized reserve outlet. The percentage of reserve almonds available for export was established at 0 percent in the final rule previously cited that established volume regulation for the 1994–95 crop. The export percentage is not changed as a result of this action.

The Board believed that immediate release of the reserve will positively impact market stability by increasing the amount of almonds available to the market prior to the harvest of the 1995 crop, and by augmenting the overall supply available for the upcoming season. The interim final rule is expected to facilitate a smooth transition into the 1995–96 season. Since market stability is of paramount importance in achieving long-term industry health, the Board concluded that there are no viable alternatives to its recommendation.

This rule is not expected to impose any additional costs on handlers or producers because release of the reserve will eliminate the need for handlers to store almonds and will allow the product to enter an eager market in a smooth fashion. Therefore, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant material presented, including the Board's recommendation, and other available information, it is found that finalizing the interim final rule, without

change, as published in the **Federal Register** (60 FR 28520, June 1, 1995) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981 which was published at 60 FR 28520 on June 1, 1995, is adopted as a final rule without change.

Dated: July 31, 1995.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–19326 Filed 8–4–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 982

[Docket No. FV95–982–1IFR]

Filberts/Hazelnuts Grown in Oregon and Washington; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 982 for the 1995–96 marketing year. Authorization of this budget enables the Filbert/Hazelnut Marketing Board (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1995, through June 30, 1996. Comments received by September 6, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 982, both as amended (7 CFR part 982), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect, Oregon-Washington filberts/hazelnuts are subject to assessments. Funds to administer the Oregon-Washington filbert/hazelnut order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable filberts/hazelnuts during the 1995-96 marketing year which began July 1, 1995, and ends June 30, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,000 producers of Oregon and Washington filberts/hazelnuts under this marketing order, and approximately 25 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Oregon and Washington filbert/hazelnut producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 marketing year was prepared by the Filbert/Hazelnut Marketing Board, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of filberts/hazelnuts. They are familiar with the Board's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by the expected quantity of assessable filberts/hazelnuts handled. Because that rate will be applied to the actual quantity of filberts/hazelnuts, it must be established at a rate that will provide sufficient income to pay the Board's expenses.

The Board, in a mail vote, unanimously recommended a 1995-96 budget of \$483,685, \$23,325 less than the previous year. Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Personal services (salaries), \$50,735 (\$48,000), postage, \$3,000 (\$1,800), communications, \$1,200 (\$1,100), printing and publishing, \$2,400 (\$2,300), insurance, \$700 (\$650), rent, \$5,650 (\$5,560), utilities, \$850 (\$800), equipment maintenance and rental, \$1,500 (\$1,400), and office supplies, \$2,000

(\$1,500). Items which have decreased compared to those budgeted for 1994-95 (in parentheses) are: Computer services, \$750 (\$1,500), furniture, \$250 (\$1,500), equipment, \$250 (\$1,500), and research (\$25,000) for which no funding was recommended this year. All other items are budgeted at last year's amounts, including \$250,000 for promotion.

The Board also unanimously recommended an assessment rate of \$0.007 per pound, the same as last year. This rate, when applied to anticipated shipments of 60,000,000 pounds, will yield \$420,000 in assessment income. This, along with \$5,000 in interest income, \$2,572 from the Nut Growers Society in payment for services performed by the Board under an agreement with the Society, and \$56,113 from the Board's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1995-96 marketing year, estimated at \$235,691, were within the maximum permitted by the order of one marketing year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the marketing year began on July 1, 1995, and the marketing order requires that the rate of assessment for the marketing year apply to all assessable filberts/hazelnuts handled during the marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board in a mail vote and is similar to other budget actions issued in past

years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Note: This section will not appear in the Code of Federal Regulations.

2. A new § 982.339 is added to read as follows:

§ 982.339 Expenses and assessment rate.

Expenses of \$483,685 by the Filbert/Hazelnut Marketing Board are authorized, and an assessment rate of \$0.007 per pound of assessable filberts/hazelnuts is established for the marketing year ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: July 31, 1995.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-19327 Filed 8-4-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 984

[Docket No. FV95-984-1FR]

Walnuts Grown in California; Suspension of Deadline for Relaxing Reserve Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension order.

SUMMARY: This document suspends the deadline by which the Walnut Marketing Board (Board) may recommend a relaxation in reserve requirements established for a marketing year under the walnut marketing order. Suspension of the deadline will allow the Board, which locally administers the order, to make such a decision based on more current supply and shipment information. This suspension will provide the walnut industry an opportunity for more orderly marketing.

EFFECTIVE DATE: August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Mark Hessel, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, or FAX (209) 487-5906; or Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2526-S, P.O. Box 96456, Washington, D.C. 20050-6456; telephone: (202) 720-3610, or FAX (202) 720-5698.

SUPPLEMENTARY INFORMATION: This suspension order is issued under Marketing Agreement and Order No. 984 (7 CFR part 984), regulating the handling of walnuts grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this action in conformance with Executive Order 12866.

This action has been reviewed under Executive Order 12778, Civil Justice Reform. This suspension is not intended to have retroactive effect. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order

that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California walnuts who are subject to regulation under the walnut marketing order, and approximately 5,000 producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000 and small agricultural producers have been defined as those having annual receipts of less than \$500,000. The majority of California walnut handlers and producers may be classified as small entities.

The walnut marketing order provides authority for volume control in the form of free, reserve, and export percentages. The free percentage is the percentage of certified merchantable walnuts that may be shipped freely to any market during the marketing year. The reserve percentage is the amount of certified merchantable walnuts that may be shipped to export markets, government agencies, charitable institutions, poultry or animal feed, walnut oil, or other markets noncompetitive with markets for certified merchantable free walnuts. The export percentage is the percentage of reserve walnuts that may be shipped to export markets. Certified merchantable walnuts are walnuts which have been inspected and certified by the Dried Fruit Association of California as meeting the minimum grade and size requirements specified under the order.

The marketing order also provides that handlers may meet their reserve requirements by either delivering reserve walnuts to the Board for disposition by the Board or by selling or disposing of their own walnuts, as agents of the Board, in specified reserve outlets. Any reserve walnuts the Board receives would be pooled and sold by the Board in markets specified for reserve walnuts at the highest returns available. The proceeds from the sale of pooled walnuts, minus all expenses incurred by the Board in receiving, holding, and disposing of the walnuts, would be distributed to handlers who delivered walnuts to the pool in proportion to each handler's contribution.

In a marketing year (August 1-July 31) that a reserve program is implemented,